

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1365 OF 2006

Canara Bank .. Petitioner.

V/s.

Municipal Corporation of
Greater Mumbai & Others .. Respondents.

Mr.R.M. Nakhwa with Mr.T.C. Deshpande i/b. Mr.V.B.
Dhawan for the petitioner.

Ms.A.R. Joshi for the respondents.

CORAM : J.P. DEVADHAR, J.

DATED : 15TH DECEMBER, 2006.

P.C. :

1. This petition is filed to challenge the order dated 1st July, 2005 passed by the Assistant Assessor & Collector, H-West Ward under Section 164 of the Bombay Municipal Corporation Act, rejecting the complaint filed by the petitioner.

2. Pursuant to the special notice dated 29th March, 2005 issued under Section 162(2) of the Bombay Municipal Corporation Act ('the Municipal Act' for short), it was obligatory on the part of the petitioner to file complaint under Section 163 of the Municipal Act within 15 days from the receipt of the said notice. As the complaint was received after 15 days of the service of the special notice, by the impugned order dated 1st

July, 2005, the Assistant Assessor & Collector has rejected the complaint filed by the petitioner.

3. It is the case of the petitioner that the special notice was served upon the landlord and by the time the said notice was forwarded to the petitioner and the complaint was filed, there was delay of 12 days. In these circumstances, it is submitted that the delay ought to be condoned.

4. Ms.A.R. Joshi appearing on behalf of the respondents leaves it to the Court.

5. Looking to the facts and circumstances set out in the petition in my opinion, there is no negligence or inaction or want of bonafides on the part of the petitioner and hence the delay ought to be condoned. Accordingly, the impugned order dated 1st July, 2005 being (Exhibit "D-1" to the petition) is quashed and set aside. The respondents are directed to register the complaint filed by the petitioner and dispose of the same in accordance with law.

6. Rule is made absolute in terms of this order with no order as to costs.

7. The writ petition stands disposed of.

(J.P. DEVADHAR, J.)